

order granting HPH MSJ on all remaining claims.doc  
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and SHERREL HAMMAR, M.D.

FIRST CIRCUIT COURT  
STATE OF HAWAII  
FILED

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## IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

## STATE OF HAWAII

KELLEY WOODRUFF, M.D. and ) CIVIL NO. 02-1-0090-01 (BIA)  
 HAWAII CHILDREN'S BLOOD AND ) (Other Civil Action)  
 CANCER GROUP, )  
 Plaintiffs, ) ORDER GRANTING DEFENDANTS  
 vs. ) HAWAI`I PACIFIC HEALTH,  
 HAWAI`I PACIFIC HEALTH; ) KAPI`OLANI MEDICAL  
 KAPI`OLANI MEDICAL SPECIALISTS; ) SPECIALISTS, KAPI`OLANI  
 KAPI`OLANI MEDICAL CENTER FOR ) MEDICAL CENTER FOR WOMEN AND  
 WOMEN AND CHILDREN; ROGER DRUE; ) CHILDREN, ROGER DRUE, FRANCES  
 FRANCES A. HALLONQUIST; NEAL ) A. HALLONQUIST, NEAL WINN,  
 WINN, M.D.; SHERREL HAMMAR, ) M.D. AND SHERREL HAMMAR,  
 M.D.; DELOTTE & TOUCHE LLP; ) M.D.'S MOTION FOR SUMMARY  
 DENNIS M. WARREN, ESQ; JOHN ) JUDGMENT AS TO ALL REMAINING  
 DOES 1-99; JANE DOES 1-99; DOE ) CLAIMS, FILED FEBRUARY 15,  
 ENTITIES 1-20; AND DOE ) 2008  
 GOVERNMENTAL UNITS 1-10, )  
 Defendants. ) HEARING:  
 ) Date: March 18, 2008  
 ) Time: 2:00 p.m.  
 ) Judge: Hon. Bert I. Ayabe  
 ) TRIAL: 4/7/08  
 ) JUDGE: HON. BERT ISAO AYABE

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ORDER GRANTING DEFENDANTS HAWAI`I PACIFIC HEALTH,  
 KAPI`OLANI MEDICAL SPECIALISTS, KAPI`OLANI MEDICAL CENTER FOR  
 WOMEN AND CHILDREN, ROGER DRUE, FRANCES A. HALLONQUIST, NEAL  
 WINN, M.D. AND SHERREL HAMMAR, M.D.'S MOTION FOR SUMMARY  
 JUDGMENT AS TO ALL REMAINING CLAIMS, FILED FEBRUARY 15, 2008

Defendants Hawai`i Pacific Health, Kapi`olani Medical Specialists, Kapi`olani Medical Center for Women and Children, Roger Drue, Frances A. Hallonquist, Neal Winn, M.D., and Sherrel Hammar, M.D.'s Motion for Summary Judgment as to all Remaining Claims, filed February 15, 2008, came on for hearing on March 18, 2008 before the Honorable Bert I. Ayabe, Judge of the above-

entitled Court. Rafael G. del Castillo, Esq. and Arleen D. Jouxson-Meyers, Esq. appeared on behalf of Plaintiffs. Douglas Ross, Esq., Kenneth S. Robbins, Esq., and John-Anderson L. Meyer, Esq. appeared on behalf of Defendants Hawai`i Pacific Health, Kapi`olani Medical Specialists, Kapi`olani Medical Center for Women and Children, Roger Drue, Frances A. Hallonquist, Neal Winn, M.D., and Sherrel Hammar, M.D. (hereinafter "Defendants").

The Court, having reviewed the subject motion and being duly advised of the record and files herein and for good cause appearing therefor, hereby grants Defendants' Motion for Summary Judgment as to all Remaining Claims, filed February 15, 2008.

As to Count I (injunctive relief), the court finds that there are no genuine issues of material fact in dispute that plaintiffs will suffer irreparable harm if the injunctive relief is not granted. The Court declines to impose injunctive relief to restore "team care" as requested by Plaintiffs since no evidence has been presented to warrant such action by the Court. Thus, the Court grants summary judgment as to Count I.

As to Counts II and III (violation of HRS §§ 480-4(a), 480-4(b), and 480-6), the Court finds that there are no genuine issues of material fact in dispute that Defendants engaged in actions to restrain trade and commerce, control prices, or refuse to deal in violation of HRS §§ 480-4 or 480-6. There was no evidence presented by Plaintiffs that Defendants' conduct was

anticompetitive or otherwise excluded competitors by improper means. In addition, with respect to HRS § 480-4, no evidence was presented that Defendants were part of a contract or conspiracy to restrain trade or commerce. Thus, the Court grants summary judgment as to Counts II and III.

As to Count IV (violation of HRS § 480-2), the Court finds that Plaintiffs have failed to present any credible evidence that Defendants' conduct and actions were unlawful and unfair methods of competition. Thus, the Court grants summary judgment as to Count IV.

As to Counts V and VI (violation of HRS § 480-9), the Court finds that there are no genuine issues of material fact in dispute that Defendants engaged in anticompetitive conduct in violation of HRS § 480-9. There was no evidence presented by Plaintiffs that Defendants' conduct of referring patients to KMS pediatric hematology-oncologists rather than HCBCG pediatric hematology-oncologists and excluding Plaintiffs from "team care" is anticompetitive or otherwise unlawful. Thus, the Court grants summary judgment as to Counts V and VI.

As to Count VII (violation of HRS Chapter 481A), the Court finds that there are no genuine issues of material fact in dispute that Defendants engaged in deceptive trade practices in violation of HRS Chapter 481A. The Court finds that Plaintiffs failed to present any evidence to support their position that the

name "Kapi`olani Children's Blood and Cancer Group" causes a likelihood of confusion or misunderstanding with the name "Hawai`i Children's Blood and Cancer Group" or is otherwise deceptive. Thus, the Court grants summary judgment as to Count VII.

DATED: Honolulu, Hawaii, APR 16 2008

*Ber a Ayal*  
Judge of the above-entitled Court  


APPROVED AS TO FORM:

~~ARLEEN D. JOUXSON-MEYERS, ESQ.  
RAFAEL G. DEL CASTILLO, ESQ.~~

Attorneys for Plaintiffs

Civil No. 02-1-0090-01 (BIA); Woodruff, et. al. v. Hawai`i Pacific Health, et al.; ORDER GRANTING DEFENDANTS HAWAI`I PACIFIC HEALTH, KAPI`OLANI MEDICAL SPECIALISTS, KAPI`OLANI MEDICAL CENTER FOR WOMEN AND CHILDREN, ROGER DRUE, FRANCES A. HALLONQUIST, NEAL WINN, M.D., AND SHERREL HAMMAR, M.D.'S MOTION FOR SUMMARY JUDGMENT AS TO ALL REMAINING CLAIMS, FILED FEBRUARY 15, 2008